

Minutes of the Planning Commission meeting held on Thursday, January 21, 2010, at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Jeff Evans, Chair  
Jim Harland, Vice-Chair  
Tim Taylor  
Karen Daniels  
Sheri Van Bibber  
Ray Black  
Chad Wilkinson, Community Development Planner  
Tim Tingey, Community & Economic Development Director  
G.L. Critchfield  
Citizens

Excused: Kurtis Aoki

Mr. Evans opened the meeting and welcomed those present.

#### APPROVAL OF MINUTES

Sheri Van Bibber made a motion to approve the minutes as written from January 7, 2010. Seconded by Karen Daniels.

A voice vote was made. The minutes were approved unanimously, 6-0.

#### CONFLICT OF INTEREST

There were no conflicts of interest noted regarding this agenda.

#### APPROVAL OF FINDINGS OF FACT

Tim Taylor made a motion to approve the Findings of Fact for a Conditional Use Permit for Utah Transit Authority/Front Runner, Utah Soccer Arena, Cabinet Innovations, The Whistle Stop, The Hale Company, Utah Power Credit Union, and Discovery Cove P.U.D. Seconded by Karen Daniels.

A voice vote was made. The motion passed unanimously, 6-0.

#### CLEARWIRE – 4640 South 900 East, Project #09-94

Noah Grodzin was the applicant present to represent this request. Chad Wilkinson reviewed the location and request for Conditional Use Permit approval for increasing the height of an existing cell tower from 60 to 70 feet in height for the property addressed 4640 South 900 East. Municipal Code Ordinance 17.80.070 allows for low power radio communication towers exceeding 60 feet within the C-D-C zoning district subject to Conditional Use Permit approval. The original structure was approved as a permitted use because the height was less than 60 feet and the antenna and support structure were less than 2 feet in width. A subsequent request for additional height was granted in 2002; however, that work was not completed at the time. This new request includes the extension of the existing tower and placement of several new antennas. The proposed antenna structure is approximately 5 feet in width. The zoning ordinance requires a

minimum setback of 165 feet from residentially zoned properties for antennas less than 2 feet in width and a minimum setback of 330 feet when antennas exceed 2 feet in width. The antenna proposed would be between 4 and 5 feet in width when measured in accordance with standards in the ordinance. The tower is approximately 273 feet from the nearest residential zoning district to the north and east. The applicant applied for a variance to the 330 feet setback requirement in order to construct the proposed extension. The Board of Adjustment approved the requested setback variance on January 11, 2010. Based on the information presented in this report, application materials submitted and the site review, staff recommends approval subject to conditions.

Karen Daniels asked about access to the site and if there is an easement to the gated tower area. Mr. Wilkinson responded that the applicants do have an agreement that allows them access to the tower site.

Noah Grodzin, 5501 N E 109<sup>th</sup> Court, Suite A2, Vancouver, Washington, stated that the proposed use is for wireless internet and is not for typical cell phone use. Clearwire is a new service in the area and is currently working to establish a new network for this proposed wireless internet use and this is one of their many locations. The tower is owned by Sprint Communications which has a lease with the storage unit company and includes an access agreement to the tower.

Jeff Evans asked the range of this cell tower. Mr. Grodzin responded this tower will have a 5 mile range. Clearwire does have a network established throughout the rest of the country and is not a new service, but is a new network for Utah.

No comments were made by the public.

Karen Daniels made a motion to grant Conditional Use Permit approval for an increase in height to 70 feet for Clearwire for the location at 4640 South 900 East subject to the following conditions:

1. The project shall meet all applicable building code standards.
2. The project shall meet all current fire codes.
3. The applicant shall provide plans and calculations stamped and sealed by a structural engineer for review.

Seconded by Sheri Van Bibber.

Call vote recorded by Chad Wilkinson.

A Karen Daniels  
A Sheri Van Bibber  
A Jim Harland  
A Jeff Evans  
A Tim Taylor  
A Ray Black

Motion passed, 6-0.

OTHER BUSINESS:

DOWNTOWN PLANNING AND REDEVELOPMENT UPDATE

Tim Tingey, Director of Community & Economic Development, stated this is an update of the downtown area. He stated that in December city staff met with a number of the downtown property owners and stake holder groups to keep them updated. The biggest issue with downtown is there are a lot of components to make the downtown redevelopment happen. The focus area is the area from the north side of 4800 South to the Trax line to Vine Street to Center Street with the core area of the downtown as the primary focus.

Mr. Tingey explained that the reasoning behind this area of focus. The general plan that was adopted in 2003, is a guide to help decision makers evaluate development proposals and there is specific wording that states "there needs to be efforts to revitalize the downtown". There have been changes near the downtown area such as the Intermountain Medical Center and there is a huge need to be proactive with the downtown and not be reactive for development proposals. Plus, the UTA Front Runner soon to be constructed and the existing Trax line help provide great opportunities. He stated that a developer, Gerding Edlen, approached the city approximately 18 months ago with an interest in Murray City. Gerding Edlen is a group that develops a broad range of projects from smaller projects near downtowns to big projects. A large portion of downtown Portland, Oregon was developed by this same firm. Gerding Edlen focuses on sustainability and feel that Murray City is an ideal location. Gerding Edlen approached the city for potential development projects and the city has been working with them for the past year or so. Conceptual plans have been designed related to the downtown area. He stated that a large corporate headquarter group approached the city desiring to be in the downtown area where it is close to the Trax line. They also looked at Midvale and Sandy. That corporate headquarters has since backed off due to the economy and have decided to wait, but is still a possibility. The interests for the downtown area include potential uses for theater groups, restaurants, office and hotel groups.

Mr. Tingey stated that a citizen survey was conducted in August of 2008 and the overwhelming response was that the citizens desire to see something happen with the downtown area and is underutilized and needs to be improved. There have also been changes to the downtown historic overlay district, plus the Redevelopment Agency's role is to facilitate redevelopment and this has been a redevelopment area since 1977 and there is an interest from the Redevelopment Agency to make things happen in the downtown area. Murray City Corporation and the Redevelopment Agency negotiated a conceptual development agreement and as part of that agreement, Gerding Edlen has come in and worked with the Redevelopment Agency and the city staff to evaluate the site, visit with stake holders including Intermountain Health Care, UTA, UDOT, and have assisted with a market analysis to help them understand the market and the economic viability of redevelopment and preparing conceptual plans. Public input and public involvement is key to this development. The city is trying to lay the framework to what

will be presented to the public and then receive comments. The goals of the downtown project are:

1. Enhance the integrity of Murray City.
2. Maintain the historic fabric but create a “true” destination location for downtown.
3. Vibrant neighborhood.
4. Attractive architecture.
5. Walkability.
6. Capitalize on transit opportunities.
7. Increase opportunities for growth.
8. Set a standard for sustainability with the growth.

Tim Tingey presented conceptual plans and emphasized that the plans are merely conceptual, but are essential to present this vision to the public and stakeholder. The plans show a mix of residential and commercial, retail, restaurants, and a walkable community. The first phase would be along State Street and the second phase would be to the west. The conceptual plans show a city hall, a performing arts building, a parking garage, but these are merely conceptual plans. Parking is essential to the viability of the project and the city may need to participate with a parking structure.

Mr. Tingey stated that the interested developers have been concerned that they not be the pioneers of development for this area, but are willing to have a project and there needs to be an opportunity for economic incentives through the RDA and tax increment financing. In order to make some of the concept plans happen, review of land use ordinances must occur and possibly changes such as a new downtown zoning designation with new design guidelines.

Tim Tingey reported that the city has already acquired two properties in the downtown area to hopefully develop public facilities and plan to acquire additional properties. A draft for the new land use ordinance and design guidelines is currently being written. The city will continue to market the area and work towards identifying future funding options such as tax increment options.

Mr. Tingey stated that public input for the draft land use ordinance is anticipated to occur within the next few months and also expansion of the redevelopment area to allow the use of tax increment financing.

Jim Harland stated that is difficult during these hard economic times to have pioneer developers. He asked if there are increased incentives for developers to be the first. Mr. Tingey responded yes, that there are such incentives with tax increment. The challenge is that not all of the downtown area is within the redevelopment area and that area ends in the year 2015. The city is attempting to extend the 2015 time line and also

expand the redevelopment area in order to have incentives for developers. He stated that it is difficult to be competitive to redevelop a downtown area as opposed to available vacant land in other communities.

Karen Daniels asked about changes for the historical overlay district. Mr. Tingey responded that the draft document would propose a change, but will still maintain some historic preservation elements, but will not be as extensive as in the past. He stated this area is prime for a mix of historical preservation along with new designs. Gerding Edlen develops new construction amidst historical structures and it is a good mix.

Tim Taylor asked about the infrastructure capacities for this area. Mr. Tingey responded that upgrades have been done in this area over the past several years and density has been reviewed by city staff and Gerding Edlen. The capacity for the conceptual plans fit this type of density proposed and there will need to be some additional infrastructure done.

Jeff Evans stated there have been downtown historic projects that have not progressed as fast as anticipated, such as the new development on the Grecian Gardens property that is yet to be developed, and hopefully the new plans will take those into account. Mr. Tingey responded that the new "City Center" code for the downtown is difficult to balance the design standards and the ordinance so as not to restrict people/developers to the point that they don't want to participate. He stated that the existing historic preservation elements of the ordinance are good and the new Mountain View Rehab Center is a good example of a nice development. The developer of the Grecian Gardens property met the historical standards and received approval, but the financing in today's economy was the issue.

Jeff Evans commented that if there are too many historical restrictions, a developer may be discouraged and go elsewhere and financing options may not be as available.

Sheri Van Bibber asked the time line for the existing General Plan. Mr. Tingey responded the city's general plan is approximately 7 years old and as soon as some of the big issues such as the Mixed Use and the Downtown ordinances are reviewed, updating the general plan can begin. Mr. Tingey commented that typically general plans should be updated every 5 years.

#### MEETING PROTOCOL DISCUSSION

Tim Tingey stated that at the beginning of each year, he would like to have a discussion about meeting protocol and updates. He asked the commission members their opinion as to how things are going with the planning commission meetings. He stated he has received comments related to motions protocol and Roberts Rules of Order. He distributed a handout to the commission members with a review on meeting protocol. He complimented the planning commission members on their work. He reiterated that public hearings and public meetings are different. By way of practice, Conditional Use Permit reviews have been opened for public comment, but is not required per state law. Deliberation is not essential for typical conditional use permit reviews, but issues such as a general plan amendment, zone changes, ordinance amendments or where there are big issues, deliberation amongst the commission members should occur.

Jeff Evans commented that the rules and procedures have changed considerably since he started on the commission. He stated that based on Mr. Tingey's comments, the commission is being encouraged to explain in more detail their motions and opinions for the decisions made. Mr. Tingey responded when there is a difficult issue being discussed, the commission ought to deliberate their thoughts and if the conditions of approval are modified it is essential to make comments about those changes.

Sheri Van Bibber commented that at times the commission has been limited as to what they can and cannot do regarding a certain application and their hands are somewhat tied due to state law.

Ray Black commented that the attorney's office has instructed the commission members about questioning applications and that if a project can be approved with certain conditions, the commission is basically bound to grant approval without questioning and the commission has never been encouraged to do what Mr. Tingey is now proposing. Mr. Tingey responded that deliberation after the motion is a good idea and the deliberation should be based on findings and an explanation of reasoning.

Mr. Tingey indicated that when a recommendation is being made to the city council for an application, particularly when it is a controversial issue, that deliberation ought to occur explaining the recommendation and decision.

Jim Harland expressed concern about the Mixed Use review a couple of weeks ago and that the commission did not deliberate or explain their reasoning for the motion made. He stated, in his opinion, if a commission member is uncomfortable with a motion they ought to discuss that concern before the vote because possibly another commission member may have the same concern which ultimately may lead to the motion being withdrawn or a substitute motion. He stated that possibly the commission members are hesitant to express their concerns.

Mr. Tingey reiterated what the attorney's office has indicated in previous meetings, that the commission must stay focused on the facts and the code, but discussion is important particularly if there are changes being recommended or approved.

#### ELECTION OF OFFICERS FOR 2010 – CHAIR AND VICE CHAIR

Karen Daniels nominated Jim Harland to be the Chair, and Sheri Van Bibber to be the Vice-Chair for 2010. No other nominations were made.

Tim Taylor made a motion that Jim Harland be the Chair for 2010 and Sheri Van Bibber be the Vice-Chair for 2010. Seconded by Karen Daniels.

Call vote recorded by Chad Wilkinson.

A Karen Daniels

A Sheri Van Bibber

A Jim Harland

A Jeff Evans

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A Tim Taylor

A Ray Black

Motion passed, 6-0.

Jeff Evans commented that it has been a privilege and an honor to have been the Chair for the past year as well as to serve on the Commission.

Meeting adjourned.

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Tim Tingey  
Community & Economic Development Director